**THE HON'BLE SRI JUSTICE D.S.R.VARMA**

**AND**

**THE HON'BLE SRI JUSTICE V.ESWARAIAH**

**WRIT PETITION NO.754 OF 2006**

Date: 10-01-2006

Between:

M/s Sai Vani Hospitals … Petitioner

And

The Commercial Tax Officer and

Others … Respondents

**THE HON'BLE SRI JUSTICE D.S.R.VARMA**

**AND**

**THE HON'BLE SRI JUSTICE V.ESWARAIAH**

**WRIT PETITION NO.754 OF 2006**

**O R D E R (Per the Hon'ble Sri Justice D.S.R.Varma, J):**

Heard the learned counsel appearing for both the parties.

It is not in dispute that as against the impugned order dated 08-10-2005, appeal lies

before the Sales Tax Appellate Tribunal.

It is the contention of the learned counsel appearing for the petitioner that the objections submitted by the petitioner have not yet been considered by the respondents. It is his further contention that there was no collection of luxury charges from the patients at all. He further asserts that the charges collected by the petitioner for the services rendered by it in ICU and NICU wards does not come under the definition of 'luxuries' as defined under Section 2 (gg) of the Andhra Pradesh Tax on Luxuries Act, 1987.

Learned counsel appearing for the respondents submitted that there is a clear finding in the impugned order that the petitioner had collected luxury charges from the patients.

All these questions, in fact, have to be gone into by the primary authority and if not considered by it as averred by the learned counsel for the petitioner, the same can as well be agitated before the appellate authority.

Therefore, suffice it to close the writ petition with liberty to the petitioner to approach the appellate authority within a period of three weeks from today and upon an appeal being filed by the petitioner, the appellate authority shall consider the same and pass appropriate orders, in accordance with law. Pending disposal of the appeal by the appellate authority, there shall be stay of all further proceedings, including collection of tax, on condition of the petitioner depositing a sum of Rs.50,000/- (Rupees fifty thousand only) within a period of two weeks from today.

The writ petition is accordingly closed. No order as to costs.

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(D.S.R.Varma,J)

Date:10th January, 2006

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(V.Eswaraiah,J)

**Note:** Issue C.C by tomorrow

B/o

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